

**INDIVIDUAL MOTION PRACTICES OF
JUDGE DENIS R. HURLEY
United States District Court
100 Federal Plaza
Central Islip, New York 11722
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Fax Page Limit: None, but see ¶ 1(C) infra
Contact: Patricia Best
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Hours: None Listed**

Motions Returnable: Date of filing constitutes return date.

Unless otherwise ordered by the judge in a specific case, matters before the judge shall be conducted in accordance with the following practices:

1. *Communications With Chambers*

A. *Letters.* Except as provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls.* Other than those calls which should be directed to Judge Hurley's Courtroom Deputy, Patricia Best, as specified in Paragraph 1(D) below, telephone calls to chambers are permitted.

C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained, which will only be granted in emergency situations. Faxes sent without approval will not be accepted for filing.

D. *Docketing, Scheduling, and Calendar Matters.* For docketing, scheduling and calendar matters, call Judge Hurley's Courtroom Deputy, Patricia Best, at the number provided above.

E. *Request for Adjournments or Extension of Time.* All requests for adjournments or extensions of time must state (1) the originally scheduled date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling order must

be attached. All requests for an adjournment, including those relating to Court appearances, shall be made at least 48 hours prior to the deadline or scheduled appearance.

2. Motions

A. Motion Practices

All motions (except (i) motions for admission pro hac vice, (ii) habeas motions of incarcerated petitioners, (iii) objections to a magistrate judge's report and recommendation, and (iv) all motions outlined in Federal Rule of Civil Procedure 6(b), where the time for filing may not be extended by the Court, for which motions, the moving party shall file the moving papers with the Court and the Court will then issue a briefing schedule) must be filed in conformity with the procedures outlined below.

The party proposing to make a motion shall write to the Court and request a pre-motion conference and briefly state in the letter each basis for the proposed motion, citing supporting authority. The opposing party shall respond to such letter within 10 days of receipt. Neither the moving letter nor the opposing letter shall exceed three (3) pages in length. Service of the letter by the moving party within the time requirements of Federal Rule of Civil Procedure 12 shall constitute timely service of a motion made pursuant to Rule 12(b). The Court will thereafter schedule a pre-motion conference to set the dates for the service of motion papers, answering papers, reply papers, and possibly oral argument, all within a 30 day period. Once such dates have been set, no adjournments will be granted absent extraordinary circumstances. If an extraordinary circumstance is presented, the motion will be withdrawn and a new schedule set by the Court.

B. Courtesy Copies. Courtesy copies of all motion papers including those filed with the Court electronically pursuant to ECF, marked as such, should be submitted to Chambers.

C. Memoranda of Law. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 20 pages, and reply memoranda are limited to 10 pages. All memoranda of law shall be produced in a font of 11 (eleven) or higher and shall have one inch margins on all sides. Memoranda of 10 pages or more shall contain a table of contents. These requirements apply to briefs filed in support of bankruptcy and social security appeals and habeas corpus petitions as well.

D. *Filing of Motion Papers.* No motion papers shall be filed until the motion has been fully briefed. The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served. A copy of the cover letter only is to be mailed to the assigned district judge and the magistrate judge at this time.

The original moving party shall be responsible for filing all motion papers. Such party is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned magistrate judge and to opposing counsel.

E. *Oral Argument on Motions.* Parties may request oral argument by letter at the time their motion papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

F. Paragraphs A and D above do NOT apply to any of the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

3. *Pretrial Procedures*

A. *Joint Pretrial Orders in Civil Cases.* Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or

without a jury, and the number of trial days needed.

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).

vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

viii. A list by each party as to the fact and expert witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or be deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.

ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

i. On the Thursday before trial in jury cases, requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought and defenses. General instructions will be prepared by the court. When feasible, proposed jury charges should also be submitted on a 3.5" diskette in IBM Word Perfect format;

ii. By claim, a detailed statement regarding damages and other relief sought;

iii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iv. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

- v. A pretrial memorandum.